

[Third Reprint]

SENATE, No. 1409

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Co-Sponsored by:

**Senators Sweeney, Palaia, Assemblymen McKeon, Blee, D'Amato and
Wisniewski**

SYNOPSIS

Provides procedures for payment to out-of-network dentists when covered person receives payment directly from dental insurer.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 30, 2003.

(Sponsorship Updated As Of: 7/1/2003)

1 AN ACT concerning the ²[assignment] collection² of dental benefits
 2 and supplementing P.L.1968, c.305 (C.17:48C-1 et seq.), P.L.1979,
 3 c.478 (C.17:48D-1 et seq.) ²[and] ³[²] and³ P.L.1985, c.236
 4 (C.17:48E-1 et seq.) ³[²and chapter 20 of Title 2C of the Revised
 5 Statutes²]³.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
 8 of New Jersey:

9

10 ²[1. a. (1) Every contract that is delivered, issued, executed or
 11 renewed in this State pursuant to P.L.1968, c.305 (C.17:48C-1 et
 12 seq.), or approved for issuance or renewal in this State by the
 13 Commissioner of Banking and Insurance on or after the effective date
 14 of this act that provides for out-of-network benefits, shall provide that
 15 in the event a person covered under the contract uses an out-of-
 16 network dentist, the person may assign reimbursement for dental
 17 services directly to the dentist providing those services.

18 (2) A dentist who accepts assignment of reimbursement for dental
 19 services pursuant to paragraph (1) of this subsection shall:

20 (a) charge no more for those services than the dentist would charge
 21 an uninsured patient for the same services¹[, and];¹

22 (b) ¹obtain written authorization of the assignment of
 23 reimbursement directly to the dentist from the person covered under
 24 the contract, which written authorization shall include a separate
 25 notice, in 12-point bold type, that the person shall be responsible for
 26 any charges that exceed the reimbursement amount paid to the out-of-
 27 network dentist, and certify receipt of the authorization when
 28 submitting a claim for that reimbursement; and

29 (c)¹ forward to the dental service corporation the pertinent records
 30 of those patients from whom the dentist has accepted assignment of
 31 reimbursement, in accordance with regulations adopted by the
 32 Commissioner of Banking and Insurance, as required by the dental
 33 service corporation to confirm the accuracy of claim submissions.

34 b. Any dental service corporation making a payment to a covered
 35 person, after the rights of reimbursement have been assigned to the
 36 dentist, shall be liable to the dentist for the payment, and the payment,
 37 plus interest and reasonable attorney's fees, may be recovered in a
 38 court of competent jurisdiction.

39 c. The provisions of this section shall apply to all contracts in
 40 which the dental service corporation has reserved the right to change

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted May 9, 2002.

² Senate floor amendments adopted June 16, 2003.

³ Assembly floor amendments adopted June 30, 2003.

1 the premium.

2 d. A dental service corporation shall be exempt from the provisions
3 of this section if the Commissioner of Banking and Insurance
4 determines, following a hearing that is conducted in accordance with
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), that the number of dentists participating in the dental service
7 corporation network has decreased by at least 12.5% subsequent to
8 the enactment of this act.

9 e. The Commissioner of Banking and Insurance, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), shall adopt rules and regulations to effectuate the purposes of
12 this section.]²

13

14 ²[2. a. (1) Every contract that is delivered, issued, executed or
15 renewed in this State pursuant to P.L.1979, c.478 (C.17:48D-1 et
16 seq.), or approved for issuance or renewal in this State by the
17 Commissioner of Banking and Insurance on or after the effective date
18 of this act that provides for out-of-network benefits, shall provide that
19 in the event an enrollee under the contract uses an out-of-network
20 dentist, the enrollee may assign reimbursement for dental services
21 directly to the dentist providing those services.

22 (2) A dentist who accepts assignment of reimbursement for dental
23 services pursuant to paragraph (1) of this subsection shall:

24 (a) charge no more for those services than the dentist would charge
25 an uninsured patient for the same services¹[, and];¹

26 (b) ¹obtain written authorization of the assignment of
27 reimbursement directly to the dentist from the person covered under
28 the contract, which written authorization shall include a separate
29 notice, in 12-point bold type, that the person shall be responsible for
30 any charges that exceed the reimbursement amount paid to the out-of-
31 network dentist, and certify receipt of the authorization when
32 submitting a claim for that reimbursement; and

33 (c)¹ forward to the dental plan organization the pertinent records
34 of those patients from whom the dentist has accepted assignment of
35 reimbursement, in accordance with regulations adopted by the
36 Commissioner of Banking and Insurance, as required by the dental
37 plan organization to confirm the accuracy of claim submissions.

38 b. Any dental plan organization making a payment to an enrollee,
39 after the rights of reimbursement have been assigned to the dentist,
40 shall be liable to the dentist for the payment, and the payment, plus
41 interest and reasonable attorney's fees, may be recovered in a court of
42 competent jurisdiction.

43 c. The provisions of this section shall apply to all contracts in
44 which the dental plan organization has reserved the right to change the
45 premium.

46 d. A dental plan organization shall be exempt from the provisions

1 of this section if the Commissioner of Banking and Insurance
2 determines, following a hearing that is conducted in accordance with
3 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), that the number of dentists participating in the dental plan
5 organization network has decreased by at least 12.5% subsequent to
6 the enactment of this act.

7 e. The Commissioner of Banking and Insurance, pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), shall adopt rules and regulations to effectuate the purposes of
10 this section.]²

11
12 ²[3. a. (1) Every contract that is delivered, issued, executed or
13 renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et
14 seq.), or approved for issuance or renewal in this State by the
15 Commissioner of Banking and Insurance on or after the effective date
16 of this act that provides for out-of-network benefits, shall provide that
17 in the event a person covered under the contract uses an out-of-
18 network dentist, the person may assign reimbursement for dental
19 services directly to the dentist providing those services.

20 (2) A dentist who accepts assignment of reimbursement for dental
21 services pursuant to paragraph (1) of this subsection shall:

22 (a) charge no more for those services than the dentist would charge
23 an uninsured patient for the same services¹ [, and];¹

24 (b) ¹obtain written authorization of the assignment of
25 reimbursement directly to the dentist from the person covered under
26 the contract, which written authorization shall include a separate
27 notice, in 12-point bold type, that the person shall be responsible for
28 any charges that exceed the reimbursement amount paid to the out-of-
29 network dentist, and certify receipt of the authorization when
30 submitting a claim for that reimbursement; and

31 (c)¹ forward to the health service corporation the pertinent records
32 of those patients from whom the dentist has accepted assignment of
33 reimbursement, in accordance with regulations adopted by the
34 Commissioner of Banking and Insurance, as required by the health
35 service corporation to confirm the accuracy of claim submissions.

36 b. Any health service corporation making a payment to a covered
37 person, after the rights of reimbursement have been assigned to the
38 dentist, shall be liable to the dentist for the payment, and the payment,
39 plus interest and reasonable attorney's fees, may be recovered in a
40 court of competent jurisdiction.

41 c. The provisions of this section shall apply to all contracts in
42 which the health service corporation has reserved the right to change
43 the premium.

44 d. A health service corporation shall be exempt from the provisions
45 of this section if the Commissioner of Banking and Insurance
46 determines, following a hearing that is conducted in accordance with

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), that the number of dentists participating in the health service
3 corporation network has decreased by at least 12.5% subsequent to
4 the enactment of this act.

5 e. The Commissioner of Banking and Insurance, pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), shall adopt rules and regulations to effectuate the purposes of
8 this section.]]²

9
10 ²1. a. (1) A dental service corporation that makes a dental benefit
11 payment to a covered person for services rendered by an out-of-
12 network dentist shall issue the payment to the covered person in
13 accordance with the time frames set forth in section 8 of P.L.1999,
14 c.154 (C.17:48C-8.1), and shall, within three days of issuing the
15 payment, provide a notification to the out-of-network dentist of the
16 amount and date of the payment and the services for which the
17 payment was made.

18 (2) In the case of a dental service corporation that supplies an
19 administrative services only contract and makes a dental benefit
20 payment to a covered person for services rendered by an out-of-
21 network dentist under that contract, paragraph (1) of this subsection
22 shall not apply, but the dental service corporation shall, within three
23 days of issuing the payment, provide a notification to the out-of-
24 network dentist of the amount and date of the payment.

25 b. A covered person may enter into an agreement with an out-of-
26 network dentist to sign over the dental benefit payment received from
27 the dental service corporation to the dentist. The agreement shall:

28 (1) be in writing;

29 (2) be signed by the person who is entitled to receive the dental
30 benefit payment from the dental service corporation;

31 (3) be retained by the dentist for at least six years following the
32 date of the most recent payment from the covered person; and

33 (4) give the covered person at least 10 business days within which
34 to sign over the dental benefit to the dentist.

35 c. A covered person who agrees to sign over a dental benefit
36 payment in accordance with this section, shall comply with the terms
37 of the agreement; except that, if the covered person owes the out-of-
38 network dentist less than the amount of the dental benefit payment, the
39 covered person shall pay the dentist the balance owed to the dentist.

40 d. A covered person who fails to sign over the dental benefit
41 payment in accordance with this section, shall be liable to the out-of-
42 network dentist for payment of attorney fees and costs reasonably
43 incurred by the dentist in enforcing the agreement established pursuant
44 to this section.

45 ³[e. A covered person who purposely or knowingly, and without
46 the treating out-of-network dentist's authorization, fails to sign over

1 a dental benefit payment within 30 days of the person's receipt of the
2 payment, in violation of an agreement entered into in accordance with
3 this section, is guilty of theft of dental benefit proceeds pursuant to
4 section 4 of P.L. , c. (C.)(pending before the Legislature as
5 this bill).²]³

6
7 ²2. a. (1) A dental plan organization that makes a dental benefit
8 payment to an enrollee for services rendered by an out-of-network
9 dentist shall issue the payment to the enrollee in accordance with the
10 time frames set forth in section 9 of P.L.1999, c.154 (C.17:48D-9.4),
11 and shall, within three days of issuing the payment, provide a
12 notification to the out-of-network dentist of the amount and date of
13 the payment and the services for which the payment was made.

14 (2) In the case of a dental plan organization that supplies an
15 administrative services only contract and makes a dental benefit
16 payment to an enrollee for services rendered by an out-of-network
17 dentist under that contract, paragraph (1) of this subsection shall not
18 apply, but the dental plan organization shall, within three days of
19 issuing the payment, provide a notification to the out-of-network
20 dentist of the amount and date of the payment.

21 b. An enrollee may enter into an agreement with an out-of-network
22 dentist to sign over the dental benefit payment received from the
23 dental plan organization to the dentist. The agreement shall:

24 (1) be in writing;

25 (2) be signed by the person who is entitled to receive the dental
26 benefit payment from the dental plan organization;

27 (3) be retained by the dentist for at least six years following the
28 date of the most recent payment from the enrollee; and

29 (4) give the enrollee at least 10 business days within which to sign
30 over the dental benefit to the dentist.

31 c. An enrollee who agrees to sign over a dental benefit payment in
32 accordance with this section, shall comply with the terms of the
33 agreement; except that, if the enrollee owes the out-of-network dentist
34 less than the amount of the dental benefit payment, the enrollee shall
35 pay the dentist the balance owed to the dentist.

36 d. An enrollee who fails to sign over the dental benefit payment in
37 accordance with this section, shall be liable to the out-of-network
38 dentist for payment of attorney fees and costs reasonably incurred by
39 the dentist in enforcing the agreement established pursuant to this
40 section.

41 ³[e. An enrollee who purposely or knowingly, and without the
42 treating out-of-network dentist's authorization, fails to sign over a
43 dental benefit payment within 30 days of the enrollee's receipt of the
44 payment, in violation of an agreement entered into in accordance with
45 this section, is guilty of theft of dental benefit proceeds pursuant to
46 section 4 of P.L. , c. (C.)(pending before the Legislature as

1 this bill).²]³

2

3 ²3. a. (1) A health service corporation that makes a dental benefit
4 payment to a covered person for services rendered by an out-of-
5 network dentist shall issue the payment to the covered person in
6 accordance with the time frames set forth in section 4 of P.L.1999,
7 c.154 (C.17:48E-10.1), and shall, within three days of issuing the
8 payment, provide a notification to the out-of-network dentist of the
9 amount and date of the payment and the services for which the
10 payment was made.

11 (2) In the case of a health service corporation that supplies an
12 administrative services only contract and makes a dental benefit
13 payment to a covered person for services rendered by an out-of-
14 network dentist under that contract, paragraph (1) of this subsection
15 shall not apply, but the health service corporation shall, within three
16 days of issuing the payment, provide a notification to the out-of-
17 network dentist of the amount and date of the payment.

18 b. A covered person may enter into an agreement with an out-of-
19 network dentist to sign over the dental benefit payment received from
20 the health service corporation to the dentist. The agreement shall:

21 (1) be in writing;

22 (2) be signed by the person who is entitled to receive the dental
23 benefit payment from the health service corporation;

24 (3) be retained by the dentist for at least six years following the
25 date of the most recent payment from the covered person; and

26 (4) give the covered person at least 10 business days within which
27 to sign over the dental benefit to the dentist.

28 c. A covered person who agrees to sign over a dental benefit
29 payment in accordance with this section, shall comply with the terms
30 of the agreement; except that, if the covered person owes the out-of-
31 network dentist less than the amount of the dental benefit payment, the
32 covered person shall pay the dentist the balance owed to the dentist.

33 d. A covered person who fails to sign over the dental benefit
34 payment in accordance with this section, shall be liable to the out-of-
35 network dentist for payment of attorney fees and costs reasonably
36 incurred by the dentist in enforcing the agreement established pursuant
37 to this section.

38 ³[e. A covered person who purposely or knowingly, and without
39 the treating out-of-network dentist's authorization, fails to sign over
40 a dental benefit payment within 30 days of the person's receipt of the
41 payment, in violation of an agreement entered into in accordance with
42 this section, is guilty of theft of dental benefit proceeds pursuant to
43 section 4 of P.L. , c. (C.)(pending before the Legislature as this
44 bill).²]³

45

46 ³[²4. A person is guilty of theft of dental benefit proceeds if the

1 person knowingly or purposely, and without the treating out-of-
2 network dentist's authorization, fails to sign over a dental benefit
3 payment within 30 days of the person's receipt of the payment as
4 provided in P.L. , c. (C.)(pending before the Legislature as this bill).
5 a. Theft of dental benefit proceeds constitutes a crime of the third
6 degree if the dental benefit proceeds total \$500 or more;
7 b. Theft of dental benefit proceeds constitutes a crime of the fourth
8 degree if the dental benefit proceeds total more than \$200, but less
9 than \$500; and
10 c. Theft of dental benefit proceeds constitutes a disorderly persons
11 offense if the dental benefit proceeds total less than \$200.²]³
12
13 ²[4.] ³[5.²] 4.³ This act shall take effect on the ²[180th] 60th²
14 day after enactment ²[and shall not apply to contracts written on an
15 administrative services only basis]².